

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

UNITED STATES POSTAL SERVICE

and

Case 10-CA-38097(P)

**AMERICAN POSTAL WORKERS UNION
GADSDEN BRANCH LOCAL 537**

DECISION AND ORDER

On March 10, 2010, the two sitting members of the Board issued an unpublished Decision and Order in this proceeding approving the parties' Formal Settlement Stipulation. Thereafter, the General Counsel filed an application for enforcement of the Board's Decision and Order in the United States Court of Appeals for the Eleventh Circuit on March 22, 2010. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that, under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the General Counsel filed a motion with the court of appeals requesting remand of the case to the Board for further consideration in light of *New Process Steel*, and on August 24, 2010, the court remanded the case.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On January 20, 2010, the United States Postal Service (the Respondent), American Postal Workers Union Gadsden Branch Local 537 (the Charging Party), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding has been transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

¹ We note that the remedy to which the parties have agreed is not fully consistent with previous broad orders that Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and

Based on the Formal Settlement Stipulation² and the entire record, the Board makes the following:

Findings of Fact

1. The Respondent's business

The Respondent is and has been, at all times material herein, an independent establishment of the Executive Branch of the Government of the United States and operates various facilities throughout the United States in the performance of its basic function to provide postal services to the Nation, including its facility located at 421 Pelham Road North, Jacksonville, Alabama, 36265, herein called Respondent's Jacksonville, Alabama facility, the facility involved in this settlement and the underlying proceedings.

The Respondent is now, and has been at all material times, an entity subject to the Act under 39 U.S.C. Section 1209(a).

2. The labor organization involved

At all material times, the American Postal Workers Union, AFL-CIO (the Union), and the Charging Party have been labor organizations within the meaning of Section 2(5) of the Act.

3. The appropriate unit

All maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, and material distribution centers employees, excluding managerial and supervisory personnel, employees engaged in personnel work in other than a purely non-confidential clerical capacity, guards, postal inspection service employees, employees in the supplemental work force, rural mail carriers, mail handlers and letter carriers.

refusing to provide relevant information. See, e.g., *United States Postal Service*, 28-CA-17383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003); and *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007). These broad orders, as enforced by the United States Courts of Appeals, remain in effect. However, because all parties have agreed to the terms of this Formal Settlement Stipulation, we have determined that approval of the parties' settlement will effectuate the purposes of the Act. The Board's approval of this stipulation does not modify these orders in any respect.

² The Order has been corrected to reflect that the Respondent is an employer rather than a union.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Jacksonville, Alabama, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Unduly delaying furnishing information to the Union, as the exclusive collective-bargaining representative of the employees in the following appropriate bargaining unit:

All maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, and material distribution centers employees, excluding managerial and supervisory personnel, employees engaged in personnel work in other than a purely non-confidential clerical capacity, guards, postal inspection service employees, employees in the supplemental work force, rural mail carriers, mail handlers and letter carriers.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its Jacksonville facility, 421 Pelham Road North, Jacksonville, Alabama, copies of the attached notice marked "Appendix A."³ Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Dated, Washington, D.C. June 29, 2012

Mark Gaston Pearce Chairman

Richard F. Griffin, Jr., Member

Sharon Block, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A
CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF
APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

WE WILL NOT fail or refuse to promptly furnish information requested by the American Postal Workers Union, Gadsden Branch – Local 537, AFL-CIO, that is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the following appropriate bargaining unit:

All maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, and material distribution centers employees, excluding managerial and supervisory personnel, employees engaged in personnel work in other than a purely non-confidential clerical capacity, guards, postal inspection service employees, employees in the supplemental work force, rural mail carriers, mail handlers and letter carriers.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

UNITED STATES POSTAL SERVICE

DATE: _____ BY: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and

remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to an agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov

233 Peachtree Street, N.E.
Harris Tower, Suite 1000
Atlanta, Georgia 30303

Telephone: (404) 331-2896
Hours of Operation: 8:00 a.m. to 4:30 p.m.